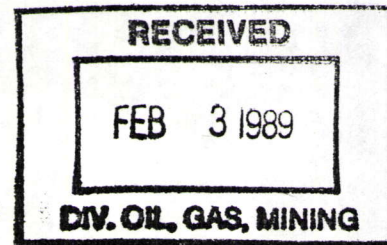


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MINERALS PROGRAM
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BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

UTELITE CORPORATION,	:	
	:	
Petitioner,	:	PETITION
	:	
vs.	:	Docket No. <u>89-001</u>
	:	
THE DIVISION OF OIL, GAS,	:	Cause No. <u>m/043/004</u>
AND MINING, Department of	:	
Natural Resources for the	:	
State of Utah,	:	
	:	
Respondent.	:	
	:	

COMES NOW the Petitioner, Utelite Corporation, by and through its attorney, Robert W. Adkins, and in support of this Petition states and represents as follows:

1. Utelite Corporation is a corporation incorporated in the State of Utah and is authorized to do business in the State of Utah. Utelite Corporation's address is P.O. Box 387, Coalville, Utah 84017, Telephone No. 336-5301.

2. Utelite Corporation conducts a surface mining operation in the SE1/4 of Section 5 and the N1/2 of Section 8, Township 1 South, Range 5 East, SLM, in Summit County, Utah, from which it mines expanded rock/shale light weight aggregate.

3. Utelite has operated at that location mining the expanded rock/shale light weight aggregate since 1961.

4. On November 2, 1988, Utelite Corporation received a letter from the Division of Oil, Gas, and Mining, a copy of which is attached hereto and incorporated herein as Exhibit A. The

Division of Oil, Gas, and Mining claims that Utelite's operation does not fall into the "rock aggregate" classification set forth in the Mined Land Reclamation Act, Section 40-8-1, et. seq.

5. The Division of Oil, Gas, and Mining, pursuant to said letter of November 2, 1988, suggested that Utelite Corporation initiate a proceeding before the Board of Oil, Gas, and Mining to classify Petitioner's operation as a rock aggregate operation.

6. Unless the Board classifies Petitioner's operation as a rock aggregate operation, the Division of Oil, Gas, and Mining intends to require Petitioner to, among other things, provide a surety as required by Section 40-8-14, Utah Code Annotated 1953, as amended.

7. The Board of Oil, Gas, and Mining has the legal authority and jurisdiction to issue a declaratory ruling as to Utelite Corporation's expanded rock/shale light weight aggregate operation pursuant to Section 40-8-6, Utah Code Annotated 1953, as amended, and Rule R619-111-100 of the Procedural Rules of the Utah Board of Oil, Gas, and Mining.

WHEREFORE, Petitioner respectfully requests that:

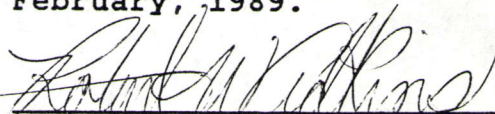
8. This Petition be set for hearing at the next regularly scheduled meeting of the Board of Oil, Gas, and Mining.

9. Notice be given of the time, place, and purpose of such hearing in accordance with the laws of the State of Utah and the Board's rules and regulations.

10. The Board enter its Order that Utelite Corporation's operation is a "rock aggregate" operation as that term is used

in the Mined Land Reclamation Act, and, accordingly, Utelite is not subject to the surety provisions and other requirements of the Mined Land Reclamation Act.

DATED this 3 day of February, 1989.



Robert W. Adkins
ADKINS & CHRISTIANSEN
P.O. Box 660
Coalville, Utah 84017
Telephone: (801) 336-2618
Attorneys for Utelite Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Petition upon all parties of record in this proceeding by delivering a copy thereof in person to Dr. Diane R. Nielson, Director, Division of Oil, Gas, and Mining, 3 Triad Center, Suite 350, Salt Lake City, Utah 84130. Dated at Salt Lake City, Utah, this 3 day of February, 1989.



"Exhibit A"



Norman H. Bangerter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple

3 Triad Center, Suite 350

Salt Lake City, Utah 84180-1203

801-538-5340

November 2, 1988

Mr. Carsten Mortensen
General Manager
Utelite Corporation
P.O. Box 387
Coalville, Utah 84017

Dear Mr. Mortensen:

Re: Rock Aggregate Classification, Utelite Mine, M/043/004, Summit
County, Utah

This letter is to confirm the phone conversation I had with Slim Garrick this morning concerning your operation. The Division has determined that the mining of a consolidated rock unit, similar to your shale operation, does not fall into the rock aggregate classification.

The Division's definition of rock aggregate mining is the following:

"Rock aggregate" means unconsolidated material such as sand, gravel, slag, or stone used for mixing with a cementing or bituminous material to form concrete, mortar, or plaster; or used alone as a construction material such as railroad ballast or graded fill. It does not include consolidated rock units mined and processed to obtain rock aggregate material.

The Board of Oil, Gas and Mining has not adopted a specific definition. Instead, they will consider questionable operations individually. Your shale operation, upon appeal before the Board, may very well be classified as an exempt rock aggregate operation. I encourage you to proceed to appeal for an exempt from permitting and reclamation status for the Utelite Mine, although, to date, the Board has not established a position on specific mines in this regard.

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Carsten Mortensen
M/043/004
November 2, 1988

I apologize for any misunderstandings concerning the Division's decision. Feel free to call me if you have any questions. Marjie Anderson, of this office, is your contact to appeal this decision through the Board.

Sincerely,



Scott Johnson
Reclamation Engineer

jb
cc: Marjie Anderson
Lowell Braxton
MN18/29-30